

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: Squad #3	CCRB Case #: 201703897	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/21/2017 4:30 AM	Location of Incident: St. George's Terminal	Precinct: 120	18 Mo. SOL 9/21/2018	EO SOL 9/21/2018	
Date/Time CV Reported Tue, 05/16/2017 5:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 05/16/2017 4:50 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Stephen Viani	01812	926257	PBSI
2. POF Lauren Ferrara	30653	960530	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Palmer	10753	937240	PBSI
2. POM Michael Bilbao	05385	934493	PBSI

Officer(s)	Allegation	Investigator Recommendation
A.SGT Stephen Viani	Abuse: Sergeant Stephen Viani forcibly removed § 87(2)(b) to the hospital.	
B.SGT Stephen Viani	Force: Sergeant Stephen Viani used physical force against § 87(2)(b)	
C.SGT Stephen Viani	Abuse: Sergeant Stephen Viani threatened § 87(2)(b) with the use of force.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 16, 2017, § 87(2)(b) filed this complaint with the CCRB in person.

On March 21, 2017, § 87(2)(b) was at St. George's Terminal in Staten Island, when he got into a fight with another male civilian. PO Lauren Ferrara of the 122nd Precinct and PO Michael Bilbao of Patrol Borough Staten Island instructed § 87(2)(b) to leave the area and stop fighting with the male. At approximately 4:30 a.m. PO Ferrara was with Sgt. Stephen Viani, of Patrol Borough Staten Island, when they saw § 87(2)(b) again. Sgt. Viani made the decision to remove § 87(2)(b) to § 87(2)(b) (**Allegation A: Abuse of Authority, § 87(2)(g)**). Sgt. Viani allegedly used force to place § 87(2)(b) in handcuffs (**Allegation B: Force, § 87(2)(g)**). While they were waiting for the ambulance to arrive, Sgt. Viani allegedly threatened § 87(2)(b) with the use of force (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO William Palmer of Patrol Borough Staten Island escorted § 87(2)(b) to § 87(2)(b) and completed an Aided Report. § 87(4-b), § 87(2)(g)

§ 87(2)(b) was not arrested or issued any summonses.

No video footage of this incident was obtained.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Stephen Viani forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) stated that he had drank one half pint bottle of alcohol and two beers when he got into a fight in the taxi area of the Staten Island Ferry Terminal. § 87(2)(b) said that he and a male had hit and pushed each other, and were yelling and cursing when officers arrived. Sgt. Viani separated them and told § 87(2)(b) to leave. § 87(2)(b) went inside the terminal, and the male later came inside as well. § 87(2)(b) and the male began cursing at each other again, and § 87(2)(b) said they were "almost" fighting, but were about five feet apart. Sgt. Viani and additional officers approached § 87(2)(b). Sgt. Viani used some force to place § 87(2)(b) in handcuffs, as discussed below under Allegation B. § 87(2)(b) asked why he was being placed in handcuffs, and Sgt. Viani told him that he was not being arrested, but was being taken to the hospital and needed to be placed in handcuffs. § 87(2)(b) was later removed to § 87(2)(b).

PO Ferrara, who does not usually work at the ferry terminal and was not familiar with § 87(2)(b) prior to this incident, said that she and PO Bilbao initially approached § 87(2)(b) who was yelling, intoxicated, and irate. § 87(2)(b) was wobbling, had glassy eyes, and was slurring his speech. PO Ferrara and PO Bilbao asked § 87(2)(b) to leave, which he did after initially refusing to comply. Later that day when PO Ferrara was with Sgt. Viani, she saw § 87(2)(b) banging on the door to the police room in the ferry terminal. § 87(2)(b) was still irate and intoxicated, and was yelling. PO Ferrara and Sgt. Viani asked § 87(2)(b) to calm down and to stop, and said that if he did not do so he would need to leave, but he did not cooperate. Sgt. Viani decided to call an ambulance to take § 87(2)(b) to the hospital for a short-term detoxification. Sgt. Viani did not

give any reasons as to why § 87(2)(b) was removed to the hospital other than his intoxication. PO Ferrara was not sure if § 87(2)(b) was a threat to himself, but thought that he needed to go to the hospital because he was intoxicated, was acting disorderly by yelling and banging on the door, and was not listening to their requests for him to leave.

Sgt. Viani stated that he encounters § 87(2)(b) in the ferry terminal on a regular basis, and he is usually intoxicated, emotionally disturbed, and/or disorderly. Sgt. Viani said he would have made the decision to remove § 87(2)(b) to the hospital based on his usual behavior, which is yelling, screaming, and threatening, or based on the fact that § 87(2)(b) was disorderly or intoxicated. Sgt. Viani could not recall § 87(2)(b)'s behavior on this morning specifically, but said that he deemed it necessary that he go to the hospital. Sgt. Viani could not remember whether § 87(2)(b) posed a threat to himself or others during this incident. Sgt. Viani stated that § 87(2)(b) usually threatens the officers and their jobs, but he did not find those threats to be credible and could not remember what threats § 87(2)(b) made on that morning.

PO Bilbao stated that he saw § 87(2)(b) multiple times, and § 87(2)(b) was irate and intoxicated throughout the night. PO Bilbao was not aware of whether § 87(2)(b) was removed to the hospital, but did not believe that he was a threat to himself or anyone else that night. PO Bilbao's memo book entries note a report of a past assault at 4:23 a.m., but PO Bilbao could not remember that incident or whether it involved § 87(2)(b) (01 Board Review).

PO Palmer stated that when he arrived at the ambulance, § 87(2)(b) had already been placed on a stretcher. PO Palmer believed that § 87(2)(b) was intoxicated and said he was yelling and cursing, but did not find him to be a threat to himself or others while he was being transported to the hospital, and Sgt. Viani did not tell him that § 87(2)(b) was a threat to himself or other officers. PO Palmer's memo book entries note that § 87(2)(b) was intoxicated and emotionally disturbed, and he explained that he wrote both of those things because § 87(2)(b) had been emotionally disturbed in the past (02 Board Review).

The Aided Report that PO Palmer prepared notes that § 87(2)(b) was emotionally disturbed and was taken to the hospital for a psychiatric evaluation (03 Board Review). The Aided Report also notes that § 87(2)(b) made verbal threats.

The Event documents show a detailed Event generated at 4:13 a.m. by a 911 call from § 87(2)(b) who said that he had been assaulted earlier in the evening (04 Board Review). In the 911 call, § 87(2)(b) states that he was hurt from prior incidents and had been beat up but did not need EMS (05 Board Review). § 87(2)(b) also said that he had anger issues, medication, and a previous psychiatric history, and would fight the police if they fought him. Throughout the 911 call, § 87(2)(b) rambles and has slurred speech. The radio communications did not include his prior psychiatric history, the threats against the police, or that he was intoxicated (06 Board Review).

Medical records obtained from § 87(2)(b) note that the police said § 87(2)(b) was taken to the hospital because he was loud and verbally aggressive to homeless people, but was not observed to be threatening to anyone (07 Board Review). § 87(2)(b) smelled of alcohol and said he had been drinking beers since the morning, and had a fight with a homeless

person at the ferry terminal, but was found to be calm, cooperative, and coherent, with a normal gait when seen by a doctor at 5:10 a.m.

Patrol Guide Procedure 221-13 states that when an officer reasonably believes that a person who is apparently mentally ill or emotionally disturbed, which is defined as being mentally ill or temporarily deranged and conducting oneself in a manner likely to result in a serious injury to oneself or others, they must be taken into protective custody (08 Board Review).

§ 87(2)(g)

Allegation (B) Force: Sergeant Stephen Viani used physical force against § 87(2)(b)

§ 87(2)(b) alleged that during the handcuffing process, Sgt. Viani grabbed him from behind and tried to push his back down. § 87(2)(b) tensed up and “made sure he didn’t go to the floor;” he went down on one knee and then got back up. § 87(2)(b) said that he moved his upper arms and body, and tried to move his hands away to avoid being placed in handcuffs but could not do this because of the grip Sgt. Viani had on his hands. Sgt. Viani handcuffed § 87(2)(b)

PO Ferrara stated that after Sgt. Viani decided to have § 87(2)(b) removed to the hospital, he decided to place § 87(2)(b) in handcuffs because he was uncooperative. PO Ferrara did not remember whether she, Sgt. Viani, or both of them placed § 87(2)(b) in handcuffs, but said there was no difficulty doing so and no force was used in the process. PO Ferrara did not see any officer use force against § 87(2)(b)

Sgt. Viani also stated that § 87(2)(b) was placed in handcuffs but he could not remember if he did so or if another officer did so. Sgt. Viani did not recall if § 87(2)(b) resisted being placed in handcuffs, or if any force was needed. Sgt. Viani denied pushing § 87(2)(b)s back down, causing him to drop to the ground, and did not recall any force being used against § 87(2)(b)

Patrol Guide Procedure 221-02 requires officers to use the reasonable force necessary to gain control, and defines active resisting as physically evasive movements to defeat an officer’s attempt at control, including bracing, tensing, and pushing (16 Board Review).

§ 87(2)(g)
[REDACTED]

Allegation (C) Abuse of Authority: Sergeant Stephen Viani threatened § 87(2)(b) with the use of force.

§ 87(2)(b) said that he and Sgt. Viani walked into the police office and “said stuff” to each other while waiting for EMS. § 87(2)(b) said Sgt. Viani was angry and said, “You’re lucky, I would have beat you up.” Sgt. Viani threatened to beat him up at another point during the incident.

As discussed above, Sgt. Viani could not remember the details of this incident, and did not remember whether he said, “You’re lucky, I would have beat you up.” Sgt. Viani said he could not remember if he made any verbal threats of force towards § 87(2)(b)

PO Ferrara stated that she and Sgt. Viani waited for the ambulance with § 87(2)(b) but denied that any officer made the alleged statement or told § 87(2)(b) that they could use force against him.

PO Bilbao did not remember whether other officers threatened § 87(2)(b) with force.

PO Palmer was not present during this part of the incident.

§ 87(2)(b) stated that Sgt. Viani threatened him with force multiple times. Sgt. Viani could not remember the specifics of this incident and did not remember whether he made the alleged statement or any threats of force, and the other officers interviewed did not corroborate § 87(2)(b)'s statement. § 87(2)(g)

§ 87(4-b), § 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- Sgt. Viani has been a member of service for 18 years and has been a subject in two CCRB complaints and three allegations, of which one was substantiated.
 - Case 201701838 involved a substantiated allegation of force against Sgt. Viani. The Board recommended charges, and the NYPD has not yet imposed discipline.
 - § 87(2)(g) [REDACTED]
[REDACTED]
- PO Ferrara has been a member of service for two years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
 - § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - As of March 30, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (14 Board Review).
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Squad No.: 3

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date